

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:	§	
Edward R. Rhoads, et al.	§	Conf. No.: 8924
	§	
Serial No.: 10/764,617	§	Art Unit: 2185
	§	
Filed: January 26, 2004	§	Examiner: Zhuo H. Li
	§	
For: Organizing Information Stored in	§	Atty Docket: ITL.0241D1US
Non-Volatile Re-Programmable	§	(P7376D)
Semiconductor Memories	§	

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REPLY BRIEF**

It is respectfully submitted that the rejection basically insists that the only person who could possibly know what actually happened, here the prosecuting attorney, is somehow disabled from telling what happened. It ignores the fact that the inventors of the underlying applications have no specific knowledge of what happened and would not reasonably have any basis to know that material from one application was used in another. Under the circumstances, not only is the prosecuting attorney's Declaration probative, it is the best evidence.

Moreover, the Patent Office has no evidence of any prior inventorship by anyone other than the named inventors. The only evidence they have is that it is in a prior application and, given that it is in a prior filed application, that would be good enough but for the evidence of record that that prior application was the result of copying from the subsequently filed application during preparation.

The suggestion that there is no proof that in fact the inventors of the later filed application actually invented it, seems to put the burden of proof on the wrong foot. Since the applicants have shown that Tallam did not invent it and that it was copied from their application and that they filed an application with a Declaration saying they are the inventors, it is the Patent Office's burden to prove that some mysterious third party actually invented it. All the evidence that the

Patent Office has presented has been conclusively rebutted and it is their burden to go show some other theory.

Therefore, the rejection should be reversed.

Respectfully submitted,

Date: May 18, 2010

/Timothy N. Trop/  
Timothy N. Trop, Reg. No. 28,994  
TROP, PRUNER & HU, P.C.  
1616 S. Voss Road, Suite 750  
Houston, TX 77057  
713/468-8880 [Phone]  
713/468-8883 [Fax]